

STATE OF NEW YORK
STATE TAX COMMISSION

In the Matter of the Petition :

of

Harry & Claire Chayt :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

of a Determination or a Refund of

Personal Income Tax :

under Article 22 of the Tax Law

for the Years 1972 - 1974. :

State of New York

County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 31st day of August, 1979, he served the within notice of Decision by certified mail upon Harry & Claire Chayt, the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

Harry & Claire Chayt

286 Coventy Ln.

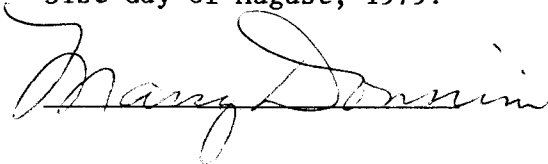
West Palm Beach, FL 33409

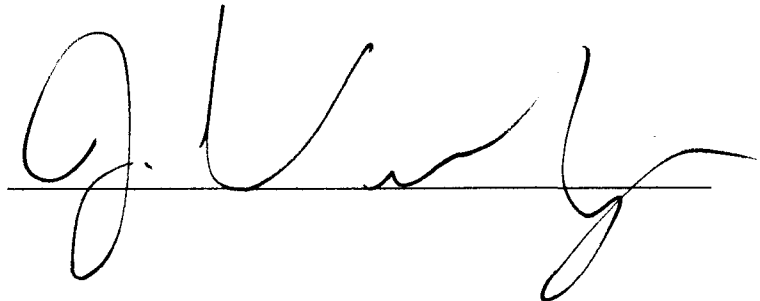
and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the petitioner herein and that the address set forth on said wrapper is the last known address of the petitioner.

Sworn to before me this

31st day of August, 1979.





STATE OF NEW YORK
STATE TAX COMMISSION

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Harry & Claire Chayt :

AFFIDAVIT OF MAILING

for Redetermination of a Deficiency or a Revision :

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Personal Income Tax :

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for the Years 1972 - 1974. :

State of New York

County of Albany

Jay Vredenburg, being duly sworn, deposes and says that he is an employee of the Department of Taxation and Finance, over 18 years of age, and that on the 31st day of August, 1979, he served the within notice of Decision by certified mail upon Daniel Jacobs the representative of the petitioner in the within proceeding, by enclosing a true copy thereof in a securely sealed postpaid wrapper addressed as follows:

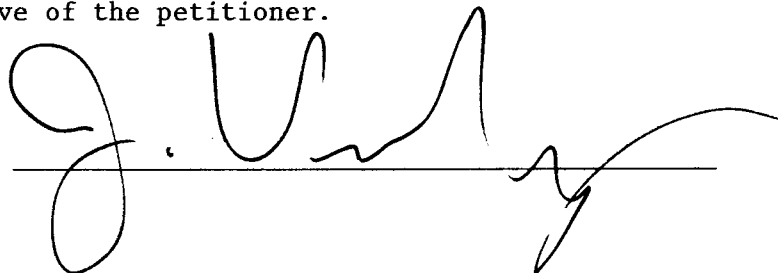
Mr. Daniel Jacobs
Avellino & Bernes
285 Madison Ave.
New York, NY 10017

and by depositing same enclosed in a postpaid properly addressed wrapper in a (post office or official depository) under the exclusive care and custody of the United States Postal Service within the State of New York.

That deponent further says that the said addressee is the representative of the petitioner herein and that the address set forth on said wrapper is the last known address of the representative of the petitioner.

Sworn to before me this
31st day of August, 1979.







STATE OF NEW YORK
STATE TAX COMMISSION
TAX APPEALS BUREAU
ALBANY, NEW YORK 12227

STATE TAX COMMISSION

JAMES H. TULLY JR., PRESIDENT
MILTON KOERNER
THOMAS H. LYNCH

JOHN J. SOLLECITO
DIRECTOR

Telephone: (518) 457-1723

August 31, 1979

Harry & Claire Chayt
286 Coventy Ln.
West Palm Beach, FL 33409

Dear Mr. & Mrs. Chayt:

Please take notice of the Decision of the State Tax Commission enclosed herewith.

You have now exhausted your right of review at the administrative level. Pursuant to section(s) 690 of the Tax Law, any proceeding in court to review an adverse decision by the State Tax Commission can only be instituted under Article 78 of the Civil Practice Laws and Rules, and must be commenced in the Supreme Court of the State of New York, Albany County, within 4 months from the date of this notice.

Inquiries concerning the computation of tax due or refund allowed in accordance with this decision may be addressed to the Deputy Commissioner and Counsel to the New York State Department of Taxation and Finance, Albany, New York 12227. Said inquiries will be referred to the proper authority for reply.

Sincerely,

A handwritten signature in cursive script, appearing to read "John J. Sollecito".

cc: Petitioner's Representative
Daniel Jacobs
Avellino & Bernes
285 Madison Ave.
New York, NY 10017
Taxing Bureau's Representative

STATE TAX COMMISSION

In the Matter of the Petition	:	
of	:	
HARRY CHAYT and CLAIRE CHAYT	:	DECISION
for Redetermination of a Deficiency or for	:	
Refund of Personal Income Tax under Article	:	
22 of the Tax Law for the Years 1972, 1973	:	
and 1974.	:	

A small claims hearing was held before Harry Huebsch, Hearing Officer, at the offices of the State Tax Commission, Two World Trade Center, New York, New York, on June 22, 1978 at 2:45 P.M. Petitioners appeared by Daniel Jacobs, accountant. The Income Tax Bureau appeared by Peter Crotty, Esq. (Samuel Freund Esq., of counsel).

I. Whether nonresident petitioners were relieved of all personal income liability for 1973 by virtue of section 601 (a) (2) (c) of the Tax Law.

II. Whether the Income Tax Bureau correctly determined petitioners' personal income tax liability for 1972, 1973 and 1974.

1. Petitioners, Harry Chayt and Claire Chayt, filed a part-year, New York State combined personal income tax return for 1972, and New York State combined income tax nonresident returns for 1973 and 1974.

2. Petitioners sold property located in New York State on the installment basis. The Income Tax Bureau contended that the gain and interest on the sale was either accruable on the 1972 return or that upon the filing of a bond, said gain and interest would be reportable in subsequent years as earned, in accordance with section 654 of the Tax Law. Petitioners elected to accrue the gain and interest in 1972 and filed amended tax returns for 1972 and 1973. The Income Tax Bureau issued a Notice of Deficiency on March 29, 1976 and subsequently corrected the deficiency as shown in Exhibit "H" as follows:

Tax due 1972 amended tax return	\$1,541.00
Additional personal income tax due 1974	<u>62.26</u>
Total due	\$1,603.26
Personal income tax refund for 1973	<u>1,541.56</u>
Additional Personal Income Tax Due	<u>\$ 61.70</u>

3. Petitioners agreed to the corrected computation as shown in Exhibit "H". However, they contended (and the Income Tax Bureau agreed) that a payment of \$76.00 was made upon filing their 1974 tax return, which was not taken into account in the computation of tax. They also contended that for 1973, their combined New York State reportable adjusted gross income was \$4,650.00; therefore, no tax was due, in accordance with the final instructions on page 2 of the tax return.

4. Petitioners submitted proof that a payment of \$76.00 was made for 1974.

5. For 1973 petitioners' combined adjusted gross income, computed as if they were residents of New York State, was in excess of \$5,000.00.

CONCLUSIONS OF LAW

A. That for 1973, nonresident petitioners, Harry Chayt and Claire Chayt, were not relieved of all personal income tax liability (under section 601(a)(2)(c) of the Tax Law), since their combined adjusted gross income, computed as if they were New York residents, was in excess of \$5,000.00.

B. That the computation by the Income Tax Bureau of petitioners' tax liability for 1972, 1973 and 1974 (as shown on Exhibit "H") was correct, except that a payment by petitioners of \$76.00 was not taken into account for 1974. The corrected liability is as follows:

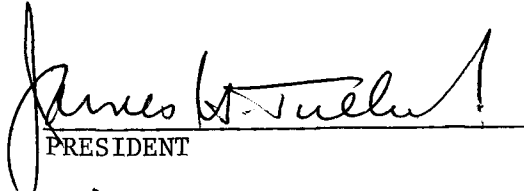
Tax due 1972 amended tax return	\$1,541.00
Personal income tax refund 1973	1,541.56
Personal income tax refund 1974	13.74
Personal income tax refund due	<u>\$14.30</u>

C. That the petition of Harry Chayt and Claire Chayt is granted to the extent shown in Conclusion of Law "B," supra. The Income Tax Bureau is hereby directed to so modify the Notice of Deficiency issued March 29, 1976, together with such interest as may be due or lawfully owing and that, except as so granted, the petition is in all other respects denied.


DATED: Albany, New York

AUG 31 1979

STATE TAX COMMISSION


PRESIDENT


COMMISSIONER


COMMISSIONER